

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

SUSANNA MIRKIN and BORIS MIRKIN,
Individually and on Behalf of All Others
Similarly Situated,

Plaintiffs,

v.

XOOM ENERGY, LLC and XOOM
ENERGY NEW YORK, LLC,

Defendants.

No. 18 Civ. 2949 (ARR) (JAM)

ORAL ARGUMENT REQUESTED

NOTICE OF DEFENDANTS' MOTION TO FILE DOCUMENTS UNDER SEAL

PLEASE TAKE NOTICE that, in accordance with Paragraph 9 of the Discovery Confidentiality Order (Doc. 48-1), so-ordered by the Honorable Ramon E. Reyes on January 24, 2020, and consistent with sealed filings previously submitted to the Honorable Allyne R. Ross, defendants XOOM Energy, LLC and XOOM Energy New York, LLC, through their undersigned counsel, hereby move for leave to file under the seal the following documents, which are attached hereto:

1. Memorandum of Law in Support of Defendants' Motion to Stay Proceedings Pending Rule 23(f) Petition and Appeal, dated November 6, 2023, a lightly redacted copy of each of which shall be publicly filed;
2. The following exhibits to the Declaration of Michael D. Matthews, Jr. in Support of Defendants' Motion to Stay Proceedings Pending Rule 23(f) Petition and Appeal, dated November 6, 2023, each of which have been marked confidential:
 - a. Exhibit E, the Expert Report of David C. Coleman on Behalf of XOOM Energy, LLC, and XOOM Energy New York, LLC, dated October 31, 2022;
 - b. Exhibit F, the Rebuttal Report of David C. Coleman on Behalf of XOOM Energy, LLC, and XOOM Energy New York, LLC, dated November 4, 2022;
 - c. Exhibit G, relevant excerpts, with highlighting, from the Deposition of Jason Loehde, Individually, dated July 27, 2022;

- d. Exhibit H, relevant excerpts, with highlighting, from the Deposition of Andrew Coppola dated May 11, 2022;
 - e. Exhibit I, relevant excerpts, with highlighting, from the Deposition of Thomas L. Ulry dated May 12, 2022; and
3. Plaintiff's Memorandum of Law in Opposition to Defendants' Motion to Stay Proceedings Pending Rule 23(f) Petition and Appeal, dated November 20, 2023, a lightly redacted copy of each of which shall be publicly filed.

Dated: December 4, 2023

McDOWELL HETHERINGTON LLP

/s/ Michael D. Matthews, Jr

Michael D. Matthews, Jr.

Diane S. Wizig (admitted *pro hac vice*)

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